

No. 18-587

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IN THE  
**Supreme Court of the United States**

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DEPARTMENT OF HOMELAND SECURITY, ET AL.,  
*Petitioners,*

v.

REGENTS OF THE UNIVERSITY OF CALIFORNIA, ET AL.,  
*Respondents.*

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ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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**BRIEF OF THE REGENTS OF THE UNIVERSITY OF  
CALIFORNIA, JANET NAPOLITANO, AND THE  
CITY OF SAN JOSÉ IN OPPOSITION**

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Jeffrey M. Davidson  
David Watnick  
COVINGTON & BURLING LLP  
One Front Street  
San Francisco, CA 94111  
(415) 591-6000

Charles F. Robinson  
Margaret Wu  
Sonya Sanchez  
University of California  
Office of the General Counsel  
1111 Franklin Street, 8th Floor  
Oakland, CA 94607  
(510) 987-9800

Robert A. Long  
*Counsel of Record*  
Mark H. Lynch  
Alexander A. Berengaut  
Megan A. Crowley  
Ivano M. Ventresca  
James O. Strawbridge  
COVINGTON & BURLING LLP  
One CityCenter  
850 Tenth Avenue, NW  
Washington, DC 20001  
(202) 662-6000

Mónica Ramírez Almadani  
COVINGTON & BURLING LLP  
1999 Avenue of the Stars  
Los Angeles, CA 90067  
(424) 332-4800

*Counsel for The Regents of the University of California and Janet  
Napolitano*

*(Additional Counsel Listed On Signature Page)*

## QUESTIONS PRESENTED

1. Whether 8 U.S.C. § 1252(g), which prohibits judicial review of decisions to “commence proceedings, adjudicate cases, or execute removal orders” in individual immigration cases, bars judicial review of a programmatic decision by the Acting Secretary of the Department of Homeland Security to rescind the Deferred Action for Childhood Arrivals (DACA) program.
2. Whether the Acting Secretary’s decision to terminate the DACA program based on an assessment of its legality is a decision “committed to agency discretion by law” and therefore immune from judicial review under the Administrative Procedure Act.
3. Whether the district court abused its discretion by issuing a tailored preliminary injunction enjoining aspects of the rescission of DACA pending adjudication on the merits, considering (a) the likelihood that the rescission will be set aside as arbitrary and capricious under the Administrative Procedure Act; (b) the irreparable harm to DACA recipients and Respondents should the program be rescinded; and (c) the absence of countervailing equities given Petitioners’ stated support for DACA.

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